



Australian Bureau of Statistics

1301.0 - Year Book Australia, 1988

ARCHIVED ISSUE Released at 11:30 AM (CANBERRA TIME) 01/01/1988

This page was updated on 22 Nov 2012 to include the disclaimer below. No other content in this article was affected.

DISCLAIMER:

Users are warned that historic issues of this publication may contain language or views which, reflecting the authors' attitudes or that of the period in which the item was written, may be considered to be inappropriate or offensive today.

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

This special article has been contributed by the Department of the House of Representatives and the Department of the Senate. Article reproduced from Year Book of Australia, 1988 (ABS cat. no. 1301.0).

On 1 January 1901, Australia came into being as a nation. Before then, the continent of Australia was divided into six colonies: New South Wales, Victoria, Queensland, South Australia, Western Australia and Tasmania, each with its own separate government. The movement to federate into the Commonwealth of Australia developed over a long period, culminating in the last decade of the 19th century, when discussions were held between political representatives of the six colonies.

Given the vastness of the Australian continent, its people decided not to follow the pattern of a unitary government, such as that which exists in the United Kingdom; rather, the separate colonies, which were established under the Constitution as States in a federal system, kept for themselves a vast array of powers, and handed over to the Commonwealth Government specific powers which were written into the Constitution. These powers included defence, postal services, immigration and foreign affairs.

The Constitution provides for a Parliament, consisting of the Queen and a fully-elected Senate and House of Representatives; a separate judiciary, with the High Court at its apex; and an Executive. In keeping with the Westminster tradition, the Constitution establishes that Ministers should come from the ranks of members of either House of the Parliament. The Constitution provides that the Queen shall be represented in Australia by the Governor-General.

The first Parliament was convened in Melbourne in 1901. Following the establishment of the Australian Capital Territory in 1911, construction of a provisional Parliament House commenced in Canberra. The provisional Parliament House was opened in 1927.

In 1978 a Parliament House Construction Authority was established with responsibility for planning and building a new and permanent Parliament House, situated on Capital Hill, Canberra.

An article on the new Parliament House can be found in Year Book No. 68.

The powers and life of Parliament

Pursuant to section I of the Constitution, the legislative power of the Commonwealth is vested in the Federal Parliament. Parliament cannot legislate without the concurrence of all its parts - the Queen and the two Houses. An exception is a law to amend the Constitution itself in which case special provisions apply: no changes to the law which is the foundation of the Commonwealth of Australia may be made unless, in a majority of States, a majority of the electors voting approve the proposed law, and a majority of all the electors voting also approve the proposed law. The important point to note about law-making is that the people's representatives actually frame the law. The Governor-General gives assent on behalf of the Queen only after the elected representatives have considered, voted upon and, if necessary, amended the proposed law.

Key legislative powers of the Commonwealth Parliament include:

- trade and commerce with other countries and among the States;
- foreign affairs;

- defence;
- postal, telephonic and similar services;
- currency, coinage, etc.;
- banking;
- insurance;
- marriage and divorce;
- invalid and old-age pensions and certain other benefits;
- immigration and emigration.

The Constitution limits the duration of every House of Representatives to a period of three years from its first meeting but provides for an earlier dissolution by the Governor-General. In such matters the Governor-General acts on the advice of the Prime Minister. Unlike the House, the Senate is a continuing body, with Senators being elected by rotation. The Senate cannot be dissolved except that, under section 57, the Governor-General may, in certain circumstances, dissolve both Houses simultaneously.

The sittings of the two Houses of Parliament are, in each year, spread over two periods: one known as the Autumn sittings, the other as the Spring or Budget sittings. The Autumn sittings usually extend from February to June. and the Budget sittings from August to December.

The periods when Parliament is not sitting are popularly known as 'recesses', although the correct term is 'adjournments'. An adjournment does not affect uncompleted business, which may be proceeded with when the sittings resume.

The composition of Parliament

The Queen

Although the Queen is nominally a constituent part of the Parliament, the Constitution provides that she appoint a Governor-General to be her representative in the Commonwealth. The office of Governor-General is of great significance in the operation of the Commonwealth.

The Senate

The Senate, sometimes called the Upper House or Second Chamber, performs two important functions. First, it represents the people of the individual States. Accordingly, the number of Senators elected to represent each State is the same, irrespective of each State's population. Second, and in common with other second chambers throughout the world, it performs the function of reviewing legislation, the great majority of which originates in the House of Representatives, and of ensuring that the executive arm of Government remains accountable to the Parliament. The two major Territories (the Australian Capital Territory) and the Northern Territory) are also represented in the Senate.

Each of the six original States has 12 Senators while the two Territories have two each - a total of 76 Senators. Senators for the States are chosen for a term of six years, with half from each State retiring on 30 June of each third year. This rotation principle ensures continuity in the constitution of the Senate, and the six year terms are designed to give Senators greater independence. Senators for the Territories, who were elected for the first time in 1975, are elected for one term of the House of Representatives.

All Senators are elected by the voting system known as proportional representation which, as its name implies, means representation proportionate to the vote received at an election.

The Senate has the same powers of law-making as the House of Representatives, with three exceptions: (1) it cannot initiate Bills appropriating revenue or imposing taxation; (2) it cannot amend Bills imposing taxation and Bills appropriating revenue or moneys for the ordinary annual services of government; and (3) it cannot amend any Bill so as to increase a charge or burden on the people. Where the Senate may not amend a Bill, it may request the House of Representatives to make the amendments the Senate desires. The Senate can reject any Bill, including a Bill it may not amend. It is in the circumstances of a legislative deadlock that the Governor-General may, on the advice of the Government, simultaneously dissolve both Houses - and thus break the continuity of the existence of the Senate.

The House of Representatives

The House of Representatives is the national Chamber of the Federal Parliament, in which the people are represented in proportion to their numbers. The Constitution provides that the number of Members of the House of Representatives shall be, as nearly as practicable, twice the number of Senators. Members of the House are elected directly by people voting in single-member electorates.

The House of Representatives currently has 148 Members. Members are chosen by the preferential voting system: where there are more than two candidates submitting themselves for election, and no candidate has an absolute majority of the votes when first preference votes have been counted, the candidate who receives the smallest number of first preference votes drops out and the second preferences on the ballot papers marked in his favour are distributed among the other candidates. This process is continued until one candidate secures an absolute majority of votes over all other candidates remaining in the count.

A distinctive role of the House of Representatives is that it serves as the foundation for the formation of the nation's Executive Government, for it is the House which determines who shall form the Executive Government of Australia. The leader of the party, or coalition of parties, commanding a majority in the House of Representatives after an election is commissioned by the Governor-General to form a government. The leader of this majority group becomes the Prime Minister, and other leading members are appointed to administer the Departments of State - they become Ministers. The government cannot survive unless the House of Representatives continues, by its vote on major issues, to show confidence in it.

The Ministry

The Ministry consists of the Prime Minister and, in recent times, some 26 other Ministers, who hold portfolios covering areas such as trade; industry, technology and commerce; social security; employment and industrial relations; treasury; immigration and ethnic affairs; foreign affairs; education; Attorney-General; defence; transport; primary industry; health; science; communications; Aboriginal affairs, and veterans' affairs.

It has always been the practice to include some Senators in the Ministry. In addition to representing their own ministerial portfolios, Senate Ministers also present government policies generally and facilitate the passage of government legislation through the Senate. Each Senate Minister represents in the Senate one or more Ministers located in the House. Likewise, each Senate Minister is represented by a Minister in the House of Representatives. Usually about a quarter of the Ministry comes from the Senate. The major spokesman for the government in the Senate, and the Prime Minister's representative there, is known as the Leader of the Government in the Senate.

The Opposition

The next largest party or coalition of parties in the House of Representatives becomes the official Opposition, and its leader is known as the Leader of the Opposition. The Opposition is sometimes referred to as the 'alternative government' because if the government is defeated at an election or loses the confidence of the House it would become the next government.

Whatever party is the government party in the House is also the government party in the Senate - regardless of whether it has a majority in its own right in the Senate. Similarly, whatever party forms the official Opposition in the House is also the official Opposition in the Senate. Smaller parties and Independents in the Senate may oppose the government on a number of issues, but they are not part of the official Opposition.

Office-holders

The Prime Minister and Ministers are officers of the Crown, but effectively hold their positions because of their standing in their party. Similarly, the positions of Leader of the Opposition and Leader of the Opposition in the Senate are party positions, as are those of the Whips in both Houses.

Offices which are distinctively parliamentary are the President of the Senate, the Speaker of the House, and their deputies. If the positions are contested, the occupants are elected in a secret ballot of all the members of their respective Houses. These persons are known collectively as parliamentary office-holders.

In addition there are permanent officers of each House, who are career officials: the Clerk of the Senate and the Clerk of the House of Representatives, who head the departments providing administrative and procedural support for the House and their committees; their deputies and senior officers; and the Usher of the Black Rod and the Serjeant-at-Arms, who have ceremonial and security functions as well as administrative responsibilities.

Parliamentary procedure

The term 'parliamentary procedure' includes forms and methods of proceeding, rules of debate, and recognised parliamentary conventions. Both Houses have their own standing and sessional orders, rulings by presiding officers, and unwritten rules of practice which have developed in the course of transaction of business in each House.

Standing orders

The standing orders are a body of rules, numbering over 400 for each House, drawn up for the proper conduct of the proceedings of that House. Among other things, the standing orders provide for the rules of debate; time limits

for speeches; rules for preserving order; the order or routine of business; and rules in connection with presentation of petitions, asking of questions, giving notices of motion, taking of divisions, appointment and procedure of various committees, moving of motions and amendments, the passage of Bills, etc.

System of debate

The process of debate is similar in each House: the subject of most debates originates in the form of a motion (a proposal made by a Senator or Member in order to elicit a decision from the relevant House through a vote). When a motion has been moved, the President or Speaker proposes the question (in the same terms as the motion) which is then subject to debate. At the end of each debate the question is decided either by a vote or a decision 'on the voices' - only a simple majority being required to affirm or negative a question in most cases.

The President, or Speaker as the case may be, presides over the proceedings of the Senate or House and thus is often referred to as a presiding officer. In debate all speeches are addressed to the Chair, who calls upon Senators or Members to speak. In cases of wilful disobedience by a Senator or a Member to the instructions of the Chair, the President or Speaker may 'name' the offender, which usually results in a motion for his or her suspension - for the remainder of the sitting day on the first occasion. In cases of grave and continuous disorder, a presiding officer has power to adjourn the Senate or House or suspend the sitting.

Voting

Voting in each House is carried out under the direction of the presiding officer. In the Senate, each Senator has one vote and questions are determined by a majority of votes. The President is in all cases entitled to a deliberative vote but not to a casting vote, thus ensuring that the States maintain their equal voting strength. If a Senate vote results in equal numbers for and against, the question is resolved in the negative (thus preserving the status quo). All questions arising in the House of Representatives are determined by a majority of votes other than that of the Speaker. The Speaker does not vote unless the numbers are equal, and then has a casting vote.

Legislative proceedings

Under Australia's federal system of government, there is a division of powers between the Federal and State Governments. Sections 51 and 52 of the Constitution list most of the matters with respect to which the Federal Parliament has power to make laws. Those powers may be varied by an alteration of the Constitution through referendum under section 128.

Law-making is the most important function of Parliament. A proposal for a law, once introduced into Parliament, becomes known as a Bill. After finally passing both Houses and receiving the Royal Assent, a Bill becomes an Act of Parliament. The Parliament considers about two hundred Bills a year.

Bills originate in different ways. Much legislation, often of a routine or machinery nature, stems from recommendations made by government departments, while other Bills flow from the undertakings made by a government, perhaps in an election campaign or subsequently. Government legislative proposals can also result from suggestions made by government Senators and Members at party meetings and in the Parliament, or they may come from interested groups in the community. In whatever way a proposal originates, it is considered by Cabinet and, if agreed to, the responsible Minister has his or her department prepare a Bill. Not all Bills originate with the government: private Senators and Members can also introduce Bills. Bills may be originated in either House, with the provision that 'money' Bills (that is, appropriation and taxing Bills) may originate only in the House of Representatives.

Except for certain special procedures on financial measures, the fundamental stages in the passage of a Bill are: presentation and first reading; second reading; committee proceedings; and third reading. The Bill is then transmitted to the other House where it proceeds through the same stages again. If any amendments are made by the second House, these have to be considered by the first House, and be approved (or the disagreement otherwise settled so that each House agrees to the Bill in exactly the same form), before the Bill can proceed to Royal Assent.

The stages, in a little more detail, are:

(i) **Presentation and first reading.** A Senator or a Member, usually a Minister, presents a Bill by handing three signed copies to the Clerk. The first reading follows immediately, and consists in the House of Representatives of the Clerk reading the long (full) title of the Bill. In the Senate a motion - That this Bill be now read a first time - is moved and voted on before the long title is read by the Clerk. Presentation and first reading permits a Bill to be circulated and its contents to become known. The first reading of a 'money' Bill can be debated in the Senate, but not in the House.

(ii) **Second reading.** The common practice is for a Minister, immediately after the first reading, to move the

second reading, and then make a second reading speech explaining the general principles of the Bill. At the end of this speech debate is usually adjourned.

Debate on the second reading, except in urgent circumstances, is resumed only after there has been an opportunity to study the Bill. This debate, known as the second reading debate, enables Senators and Members to discuss the merits of the Bill, the policies reflected in it, its consequences, etc. An amendment can be moved to the motion for the second reading and Opposition 'shadow ministers' use this opportunity regularly to place on record any particular views the Opposition may have on the measure. After the motion for the second reading has been agreed to, the Clerk reads the long title of the Bill a second time.

(iii) **Committee.** After the second reading, the President or the Speaker leaves the Chair, the Chairman of Committees takes the Chairman's seat at the Table between the Clerks, and the Senate or House forms itself into a committee of the whole for consideration of the Bill in detail. A Bill may be considered clause by clause or, by leave of the committee, in groups of clauses or as a whole. An amendment may be moved to any part of a Bill provided it is relevant to the subject-matter.

In the House of Representatives, if no member objects, the committee stage may be by-passed and the House proceed to the third reading immediately after the second reading. In the Senate, however, the standing orders do not permit this, although on occasions the committee stage may be only a formality.

After a Bill has been agreed to in committee, the President or Speaker resumes the Chair, and the Chairman formally reports to him or her that the committee has considered the Bill and agreed to it with (or without) amendment. The Minister in charge of the Bill then moves that the report be adopted. After the adoption of the report, the next stage is the third reading.

(iv) **Third reading.** The Standing Orders of both Houses provide that the third reading of the Bill shall be made an order of the day for the next sitting, but it is now usual practice to move the third reading forthwith.

The motion for third reading may be, but is not often, debated. When the question for the third reading is agreed to, the Clerk again reads the long title of the Bill, which completes its passage.

(v) **Transmission to other House and amendments there.** When a Bill has passed the House in which it was introduced, it is sent to the other House with a message requesting the concurrence in the Bill of the other House. The procedures in the second House are similar to those of the originating House, the Bill again going through first reading, second reading, committee, and third reading stages. With the exceptions imposed by the Constitution on the powers of the Senate to amend certain Bills, the other House may make amendments to the Bill, in which case it is returned by message to the originating House asking concurrence in such amendments. Only when both Houses have agreed to all the provisions in the Bill and any amendments to it can the Bill be said to have finally passed both Houses.

(vi) **Assent.** When a Bill has been finally agreed to by both Houses in identical terms, it is presented to the Governor-General for Royal Assent. Upon assent being given, the Bill becomes an Act of Parliament, that is, it becomes a law of the Commonwealth of Australia.

Parliamentary scrutiny and control of the Executive

It is fundamental to the concept of responsible government that the Executive Government be accountable to the Parliament. Control of the government is exercised finally by the ability of the House of Representatives to force, the government to resign by passing a resolution of no confidence, or by the ability of either House to refuse to pass the Bills which provide the money required for public services.

In addition to the system of close scrutiny of the work of government departments by the committees, referred to below, both Houses offer a number of opportunities for examination of government policy by the Opposition, by other non-government parties and by the government's own backbenchers.

The most prominent of these procedures is Question Time, a period of about 45 minutes in the House and one hour in the Senate each sitting day, during which time Members and Senators respectively are given an opportunity to question Ministers on topical or urgent issues or problems arising in connection with their administration of the portfolios for which they are responsible.

Question Time is invariably a highlight of the sitting day in each House - all Senators and Members are likely to attend, and it is a popular time with visitors. In each House Question Time is a daily demonstration of the accountability of the Executive to the Parliament. Question Time serves as both a forum for accountability and a means for Senators and Members to obtain information.

Two important means for debate on issues of concern or criticism of the government are the daily opportunities to raise 'matters of public importance' (both Houses) or to move urgency motions (Senate only). In addition, Senators and Members are provided with opportunities to raise matters of their own choosing in debates such as the adjournment debate and in special periods when matters of public interest may be raised.

Scrutiny of expenditure

The Parliament appropriates moneys from the consolidated revenue fund on an annual basis in order to fund government expenditure over a given financial year. A number of Acts are passed in each financial year to provide funds without which the government and public services of the country could not continue. These Acts are known as Appropriation Acts and Supply Acts. The debate in the House of Representatives on the second reading of the Appropriation Bill (No. 1) is known as the 'Budget debate' and normally continues over a period of several weeks. While this debate proceeds in the House, the six Senate Estimate Committees examine the detail of the expenditure proposals contained in the Bills, and prepare reports which are then ready for the Senate to consider in conjunction with the Bills once they are received from the House.

Parliamentary privilege

Privilege may be described as the sum of the special rights enjoyed by each House collectively and by Senators and Members individually without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals.

Section 49 of the Constitution provides that the Parliament may declare the powers, privileges and immunities of the Houses, their Members and committees, but that, until it so declares, the Houses, their Members and committees possess the powers, privileges and immunities of the United Kingdom House of Commons as at the establishment of the Commonwealth (1901). It was not until 1987 that the Commonwealth Parliament enacted comprehensive legislation in this area. **The Parliamentary Privileges Act 1987** provides for the usual and essential rights and immunities of the Houses, their Members and committees.

The best known privilege is freedom of speech, which is enjoyed so that Senators and Members, and others participating in properly constituted proceedings of each of the Houses or their committees, such as witnesses giving evidence to committees, cannot be sued or prosecuted for statements made in the course of proceedings of a House or committee.

The Houses possess the power to take action to protect themselves, their Members and committees, against actions or threats of action which constitute improper interference with the free exercise by a House or a committee of its authority or functions, or with the free performance by a Member of his or her duties as a Member.

Parliamentary committees

Parliamentary committees are appointed by the Senate (Senate committees), the House of Representatives (House committees) or by both Houses acting together (Joint committees) to undertake tasks which the Houses as such are not well fitted to perform. Committees are appointed by resolution, under sessional or standing orders, or by an Act of Parliament.

Each committee is composed of a small number of Senators or Members drawn from the political parties represented in the Parliament, and the party in government usually has at least half the representation on a particular committee. The following table summarises information on parliamentary committees.

Committees can be divided into two basic categories: internal and scrutiny. Internal committees are concerned with the administration and procedures of the Parliament and these are sometimes referred to as 'domestic' committees. The privileges committees of both Houses and the Standing Orders Committee of the Senate are examples of such committees. Scrutiny committees oversee the work of the Executive and its administration and carry out much of the detailed investigative and information-gathering work not possible in either chamber.

CLASSIFICATION OF PARLIAMENTARY COMMITTEES By function, method and House of appointment

Internal
committees:
appointed by -

Scrutiny
committees:
appointed by -

	Standing				Standing				Total
	Orders	Statute	Resolution	Total	Orders	Statute	Resolution	Total	
Senate	6	-	1	7	15	-	1 + (3)	16 + (3)	26
House of Representatives	5	-	1	6	-	-	4	4	10
Both Houses	-	1	-	1	-	3	3 + (3)	6 + (3)	10
Total	11	1	2	14	15	3	8 + (6)	8 + (6)	46

Note: The bracketed figures represent select committees. Only select committees that were operational in June 1986 have been counted in the table.

Sources: Derived from Senate Notice Paper (13.6.86) and House of Representatives)

From Federation to 1969 there was a relatively slow growth of scrutiny committees. The watershed in scrutiny committee growth was 1970 when the Senate introduced what was to become a comprehensive system of committees by appointing seven (subsequently eight) standing committees, which became known as Legislative and General Purpose Standing Committees, and five (later six) Estimates Committees. From that year onwards there has been a steady growth in the number of scrutiny committees. Of the 32 scrutiny committees included in the table, close to 75 per cent have been in existence for more than ten years.

The work of scrutiny committees can be sub-divided into three broad categories. The first is the scrutiny of legislation. The passage of legislation is the basic constitutional function of the Parliament. Committees that examine legislation assist the chamber by carrying out detailed inquiries and reviews and then reporting back with recommendations.

The second category is scrutiny of non-legislative policy. A large number of scrutiny committees are engaged either exclusively or partly in this work. Their coverage is fairly extensive and the areas of work are self-evident from committee titles, for example, the House committees on Aboriginal Affairs and Environment and Conservation, the Senate committees on Industry and Trade and Social Welfare and the Senate joint committees on Foreign Affairs and Defence.

The third category is concerned mainly with oversight of the government's financial administration: compliance with rules governing the spending of public monies and public sector efficiency. The committees that do this work are the Joint Committee of Public Works, Senate Estimates Committees, the Senate Standing Committee on Finance and Government Operations and the House of Representatives Standing Committee on Expenditure. The Public Accounts Committee (PAC), in particular, has a wide coverage of work associated with the oversight of public administration.

Although the majority of committees undertake work which falls within a single category a number are multifunctional, for example, the Senate Legislative and General Purpose Standing Committees, the Expenditure Committee and the PAC.

Senate Estimates Committees undertake the detailed consideration of annual government expenditure formerly undertaken mainly in committee of the whole. The committees seek explanations on the estimates of expenditure from Senate Ministers and senior public servants. They also ensure that the government, in framing the appropriation Bills, does not infringe Senate rights or agreed convention by, for example, placing expenditures in a Bill which the Senate cannot amend when they should have been placed in a Bill which the Senate can amend.

In May 1978 the Government announced a decision to provide responses to reports from parliamentary committees within six months of the presentation of such reports. The response period was reduced to three months in August 1983. Responses are made by Ministerial statements or papers presented to either House.

© Commonwealth of Australia

All data and other material produced by the Australian Bureau of Statistics (ABS) constitutes Commonwealth copyright administered by the ABS. The ABS reserves the right to set out the terms and conditions for the use of such material. Unless otherwise noted, all material on this website – except the ABS logo, the Commonwealth Coat of Arms, and any material protected by a trade mark – is licensed under a Creative Commons Attribution 2.5 Australia licence